

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

INSTITUTE FOR DISABILITIES  
RESEARCH AND TRAINING, INC.,  
a Maryland Corporation,

Plaintiff,

V.

Civil Action No. 05-176-GMS

WAL-MART STORE, INC.,  
a Delaware Corporation,

Defendant.

## FINAL PRETRIAL ORDER

This matter having come before the court at a pretrial conference held pursuant to Fed. R.Civ.P. (“Rule”) 16, on April 3, 2006, the following actions were taken:

- (1) The respective parties' counsel present and participating for the respective parties are as follows:

For Plaintiff, Institute for Disabilities Research and Training, Inc.

(“IDRT”):

Harvey Greenberg, Esquire  
Law Office of Harvey Greenberg, Esquire  
The Susquehanna Building  
29 West Susquehanna Avenue, Suite 700  
Baltimore, MD 21204  
(410) 823-2277

Patricia R. Uhlenbrock, Esquire  
Morris, James, Hitchens and Williams LLP  
222 Delaware Avenue, 10<sup>th</sup> Floor  
Wilmington, Delaware 19801  
(302) 888-6897

For Defendant, Wal-Mart, Inc. ("Wal-Mart"):

Gregory A. Inskip, Esquire  
Potter Anderson & Corroon LLP  
1313 North Market Street  
P.O. Box 951  
Wilmington, DE 19899  
(302) 984-6016

- (2) This is an action for breach of contract and the jurisdiction of the court is founded under Title 28 of the United States Code §1332. The parties stipulate that the amount in controversy exceeds \$75,000, exclusive of costs and interest.
- (3) The following stipulations and statements were submitted and are attached to and made a part of this order:
  - (a) Statement of uncontested facts is attached as Exhibit "A."
  - (b) Statements of contested issues of fact and law submitted by each party are attached as Exhibit "B."
  - (c) Documents each party intends to offer as Exhibits in its respective case-in-chief are included in Schedule C.
  - (d) The names and addresses of potential witnesses that the respective parties intend to call in their respective case-in-chief are included in Exhibit "D."
  - (e) Dr. Corinne Vinopol will be testifying on behalf of the plaintiff, IDRT. In part, Dr. Vinopol will be testifying about the conversion and translation process required and used in order to translate and transfer visual and audio content into American Sign Language interpretations. The résumé of Dr. Vinopol is attached as Exhibit "E."

- (f) A list of depositions or portions to be read into evidence and statements and objections thereto is attached as Exhibit "F."
- (g) IDRT's claimed damages are \$174,299.57, contended to be due pursuant to invoice billing under the agreement between the parties. In addition, IDRT claims contract interest damages at the rate of 8% per annum, beginning from March 27, 2003 to the present time. At the rate of simple interest (without compounding) the amount of interest claimed from March 27, 2003 through March 27, 2006 is \$41,831.91. The total claim, for unpaid invoice amounts and contract interest as of March 27, 2006, is \$216,131.48.

Wal-Mart's Counterclaim claimed damages are \$50,000.00, plus an additional payment credit of \$10,393.50, less a concession to an amount owed of about \$31,747.13, for a total counterclaim of approximately \$21,353.65.

- (h) There are no waivers, claims or abandonment of defenses.
- (i) Neither party has requested a jury trial; accordingly, this section does not apply.
- (j) The parties' respective proposed "Findings of Fact and Conclusions of Law" are attached as Exhibit "G."
- (k) There were some minimal settlement discussions, which were not fruitful, at or about the time parties attended the court's initial planning conference on July 27, 2005. Nevertheless, the parties agreed that they would attempt a mediation of the dispute and a mediation conference with parties and counsel was conducted by Magistrate Judge Thyng on March 3, 2006. The mediation did not result in a settlement. There are no further negotiations ongoing.

- (l) IDRT has engaged in discovery through requests for admissions, interrogatories and requests for production of documents to Wal-Mart. Responses have been filed by Wal-Mart. IDRT continues its analysis of the documents forwarded by Wal-Mart. It does not intend to request any further documents unless it finds documents produced were incomplete. IDRT has not engaged in discovery through deposition and does not intend to do so. Accordingly, except for the possibility of requesting documents requested but not included in the documents produced by Wal-Mart, IDRT has completed its discovery.

Wal-Mart reserves the opportunity, with the stipulation of IDRT, to take the deposition of IDRT's representative and/or Dr. Vinopol prior to trial; and reserves the opportunity to offer portions of that deposition into evidence. No later than April 18, 2006, Wal-Mart will provide to IDRT those portions of any such deposition it intends to offer as evidence, and IDRT will note any objection to such offered evidence, and supplement this Final Pretrial Order no later than April 20, 2006.

- (m) The parties do not intend to file any motions in limine.
- (4) Trial in this case is expected to take two days, on April 24-25, 2006.
- (5) This case is a non-jury trial ("non-jury").
- (6) This section is not relevant since no jurors will be selected.
- (7) This order will control the course of the trial and may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice.
- (8) Possibility of settlement of this case was considered by the parties.

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Gregory M. Sleet  
United States District Judge

Dated: \_\_\_\_\_

MORRIS, JAMES, HITCHENS & WILLIAMS LLP

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